

Bench Date: January 10, 2007

TELECOMMUNICATIONS DIVISION STAFF REPORT

December 21, 2006

Subject: Pursuant to Section 13-407 of the Public Utilities Act, the Commission reports annually to the General Assembly on various aspects of competition and service deployment in Illinois telecommunications markets. The Commission collects information required for its Report on Telecommunications Competition via a Competition Data Request issued annually to telecommunications providers. In this memorandum, Staff recommends changes to the Commission's Competition Data Request for the upcoming year 2006.

Capsule Summary

Section 13-407 of the Public Utilities Act requires that the Commission monitor and analyze patterns of entry and exit for each relevant market for telecommunications services, including emerging high-speed telecommunications markets. Section 13-407 also requires that the Commission monitor and analyze the status of deployment of services to consumers, and report on any resulting "digital divisions" between consumers (including any changes or trends therein). Section 13-407 empowers the Commission to collect the information required to carry out these tasks from firms providing telecommunications services within the State.

This Staff Report updates the Commission on Staff's continuing efforts to most efficiently collect information required by the Commission to discharge its obligations under Section 13-407. It also summarizes Staff proposed changes to the Commission's current Competition Data Request ("CDR").

Background

The Commission's January 25, 2006 Order in Docket No. 06-0073 ("Order") directed all telecommunications carriers providing local exchange services in Illinois to complete and submit the Commission's CDR.¹ Local exchange carriers (LECs) were directed to submit the completed CDR to Staff no later than March 1, 2006. The Order also directed Staff to collect information from facilities-based providers of broadband services in Illinois (specifically, those not possessing a certificate of service authority under Article XIII of the Public

¹ This directive applied to all carriers providing such services as of December 31, 2005.

Utilities Act). Staff was further directed to report on the responses received from all carriers and to provide any Staff recommendations for further Commission action.

Staff believes that the Commission's year 2006 data collection effort was successful and that carriers generally should be commended for their efforts to respond to the CDR and for their cooperation with Staff and the Commission.

Proposed Revisions to the CDR

Staff proposes a few substantive changes to the 2006 CDR primarily necessitated by the changing nature of the telecommunications market in Illinois. First, in the past retail LECs provided service to customers via three fundamental approaches:

- Building complete telecommunications networks using their own facilities,
- Leasing all or a portion of the facilities needed to serve end-user customers from incumbent LECs (ILECs) as unbundled network elements pursuant to Section 251(c)(3) of the Telecommunications Act of 1996, and/or
- Purchasing telecommunications services from ILECs at discounted prices and reselling these services to customers pursuant to Section 251(c)(4) of the Telecommunications Act of 1996.

With recent changes to ILEC state and federal unbundling obligations, competitive LECs (CLECs) have been making increasing use of two additional fundamental approaches:

- Leasing all or a portion of the facilities needed to serve end-user customers from ILECs under "commercial agreements", and/or
- Purchasing or leasing wholesale telecommunications services from non-ILECs.

In order to capture these additional platform options, Staff proposes to revise Chart 1 (and its various subcharts) to include these two platform options in addition to the three platform options captured in previous reports. This change will, in Staff's opinion, provide the Commission additional detail on the types of platforms competitors are using to provide retail service in Illinois telecommunications markets.

Second, in the past, it has largely been the case that competitive affiliates of ILECs served areas outside the ILECs incumbent service areas. Thus, CLECs serving ILEC service areas were by and large unaffiliated rivals of the ILECs. However, several recent mergers have occurred between ILECs and their once rivals. This has given rise to circumstances whereby CLECs are providing service in their affiliated ILECs' incumbent service areas. In order to better differentiate between instances when CLECs are competing with ILECs and those where CLECs are serving customers in their ILEC affiliates incumbent service area, Staff proposes to revise Chart 1 (and its various subcharts) to

require CLECs to report the number of lines they serve that are located within their ILEC affiliates' incumbent service areas.

Third, 220 ILCS 5/13-301(b) requires the Commission to monitor the level of telecommunications subscriber connections within each exchange in Illinois. Over time, with onset of entry into telecommunications markets, Staff has found it increasingly difficult to collect telephone provisioning information at the exchange level. In Staff's experience, retail LECs, in particular those that rely on other carriers to provide them underlying telecommunications services, often express difficulty in identifying exchange level information and generally respond in a more timely and complete fashion to requests for more aggregated provisioning information (such as provisioning information at the LATA level). This creates a dilemma wherein data requests designed to collect very granular data (such as that necessary to comply with 220 ILCS 5/13-301(b)) generally reduce the accuracy and completeness of the information received at all levels of detail. Thus, Staff has sought out and offers an alternative approach, based on 9-1-1 database information, that will provide information necessary to comply with 220 ILCS 5/13-301(b), but that will not disrupt the general more disaggregated competitive data collection effort conducted in the past. In particular, Staff proposes to amend the request to collect information that can be used to determine the number of 9-1-1 listings in each exchange. This information will provide the Commission a reasonable proxy by which it can monitor the level of telecommunications subscriber connections within each exchange in Illinois as required by 220 ILCS 5/13-301(b).

Information currently contained in the 9-1-1 databases is controlled by a small group of carriers that include Illinois Bell Telephone Company, Verizon South, Inc., Verizon North, Inc., Illinois Consolidated Telephone Company, Gallatin River Communications, L.L.C., Geneseo Telephone Company and/or their affiliates. Staff has discussed this collection with the affected carriers and their designated representative the Illinois Telecommunications Association (ITA). ITA has informed Staff that, while Illinois Bell Telephone Company (and/or its affiliates) and Verizon North, Inc./Verizon South Inc.(and/or their affiliates) have used 9-1-1 information to report on competition to the Commission and/or the Federal Communications Commission, that certain of the affected companies (which were not identified to Staff) are concerned that this collection could violate certain of the Commission rules (for example, those in Code Part 725). While Staff identifies this concern expressed by ITA, Staff in consultation with the Office of General Council does not believe the request proposed by Staff violates Commission rules. Accordingly, Staff recommends the Commission request the 9-1-1 information in order to better enable it to monitor the level of telecommunications subscriber connections within each exchange in Illinois as required by 220 ILCS 5/13-301(b).

Finally, Staff recommends that the Commission clarify that carriers are to report their non-nomadic, non-mobile voice telephone service information

regardless of the technology used to provide that service. Increasingly, carriers are relying to various degrees on non-traditional technologies such as hybrid fiber-coaxial cable and internet protocol technologies. Reporting of such services has been, in Staff's opinion, inconsistent. To ensure consistency Staff recommends that the Commission clarify that services provided over non-traditional technologies, which are often close substitutes for comparable services provided over more traditional circuit switched technologies, should be reported to the Commission.

Recommendation

Staff recommends that:

- 1) The Commission direct all telecommunications carriers providing local exchange services within the State of Illinois to complete the attached Illinois Commerce Commission Competition Data Request in accordance with the directions on the form, and to submit the completed form to Staff in the manner directed on the form, no later than March 1, 2007.
- 2) The Commission direct Staff to seek to collect all applicable information contained in the attached Illinois Commerce Commission Competition Data Request from all facilities-based providers of broadband services within the State of Illinois. This direction specifically includes all providers not possessing a Commission certificate of service authority under Article XIII of the Public Utilities Act.

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